

Michigan Supreme Court
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John D. Ferry, Jr., State Court Administrator

M E M O R A N D U M

TO: Chief Judges, Court Administrators, and Clerks of the Court

FROM: John D. Ferry, Jr.

DATE: March 30, 2000

RE: SCAO Administrative Memorandum 2000-03
Implementing Michigan Trial Court Case File Management Standards

On November 30, 1999, the Michigan Supreme Court entered Administrative Order 1999-4 establishing the Michigan Trial Court Case File Management Standards. Enclosed are two documents developed to assist trial courts in the implementation of the standards.

The first, entitled *Implementing Michigan Trial Court Case File Management Standards*, lists each component. It will allow courts to identify whether they are in compliance with the individual standards. It can also be used to prioritize the areas in which you need to take action to bring the court into compliance.

The second is the revised Model Local Administrative Order - Public Access to Court Records. MCR 8.119(E)(4) requires that every court adopt such an administrative order. The model has been revised to include optional language to address creation of new records or compilation of records pertaining to case files or case-related information under subsection (3). Courts which have already adopted a local administrative order regulating public access to court records are not required to submit a new order unless the court wishes to address the creation of records under subsection (3).

Questions regarding either document can be directed to James Covault, Director of Trial Court Services, or Matt Hanley, Management Analyst, at (517) 373-4835.

[LOCAL COURT LETTERHEAD]

Administrative Order [year] - [number]

PUBLIC ACCESS TO COURT RECORDS

IT IS ORDERED:

This administrative order is issued in accordance with Michigan Court Rules 8.119(E), effective September 30, 1999 and 8.110(C)(7), effective October 1, 1988. The purpose of this order is to regulate public access to court records and to allow flexibility in providing approved forms.

1. Court records are public unless specifically made not public by law or court order according to the attached list from Component 19 of the Michigan Trial Court Case File Management Standards. (NOTE: Delayed Sentence cases, MCL 771.1(2) are public records).

2. Requests to inspect/copy any of the above non-public records shall be handled as follows: A clerk shall notify the interested person that: a) there is a case and provide him/her with the case number; b) it is a non-public record; and c) the procedure for challenging limitations to access of court records is contained in MCR 8.116(D) which provides that any person may file a motion to set aside the order or an objection to entry of the proposed order.

3. Court records are not subject to Freedom of Information Act requests. MCL 15.232(d)(v) specifically exempts the judiciary from the Freedom of Information Act.

4. In accordance with MCR 8.110(C)(7), the court shall provide litigants with forms approved by the State Court Administrator at the cost of \$[insert amount] per form. [select an amount no less than \$.25 and no more than \$1.00]

a. Parties will be limited to a maximum of [insert number] copies per each type of form requested.

b. There will be no charge for forms requested by court appointed attorneys on cases they have been appointed to or for indigent parties.

c. There will be no charge for forms prepared by the court.

d. There will be no charge for forms that the court or clerk of the court is required by court rule or statute to provide.

[Administrative Order Number]

[Date]

5. Any person may inspect any public court file to which access is not restricted by statute, court rule or suppression order and may obtain copies subject to the following regulations established in accordance with MCR 8.119(E).

a. General

1) All requests for files and/or copies must be made on a "file/copy request form" and must specify a complete case number or party names except as provided under item b. 4) below.

2) Persons who do not have a complete case number or party names may review available case indexes to identify and select specific cases for inspection.

3) Files shall be reviewed at the public counter unless in the discretion of court supervisory personnel, approval is granted to review records in the clerk's office based on available space, the number of files to be reviewed and the length of time necessary to review them.

4) Ensuring the right of immediate access to and public inspection of records shall be a top priority, but may be limited by the availability of court staff to supervise the inspection.

b. Access to Case Files/Information

1) Requests for access to no more than [insert number] specific case files will be accommodated within [insert amount of time] unless the files are in storage.

2) Requests for access to more than [insert number] specific case files will be accommodated within a reasonable amount of time depending on the total number of case files requested and the availability of court staff.

3) Requests for specific case files in storage will be accommodated within 3 working days.

4) Case information requests from other courts that lack specific case numbers or party names shall be researched by this court. Requested information will be provided at no charge and will not require a "copy request" form.

5) Requests to perform general traffic or criminal record checks that do not have specific case numbers or party names will not be researched by the court. They will be referred to the appropriate state agencies to obtain this information or to the available indexes referred to under subsection 5.a.2).

6) Requests for the wholesale review of particular types of cases will

[Administrative Order Number]

[Date]

only be considered if, in the court's discretion, the request will not unreasonably interfere with the discharge of court functions. The court is not required to develop special procedures for the convenience or cost/benefit of persons requesting access and may specify the date, time and manner in which access is to be granted. It will be the responsibility of those persons requesting access to make prior, acceptable arrangements with the court.

c. Copies

1) The court will provide a limited number of copies (under [insert number] total pages) within 1 hour of the request for copies.

2) Requests for more than [insert number] total copies will be accommodated within a reasonable amount of time as determined by (1) the total number of pages to be copied (2) the availability of court staff and photocopying equipment and (3) the nature of the request, i.e., the degree to which court staff is required to identify and select documents to be copied.

3) In order to preserve and maintain the integrity of court records and to prevent unreasonable interference with the discharge of court functions, persons will not be permitted to copy or otherwise duplicate court records using their own equipment.

(optional) d. *New Record Creation*

1) *Requests for creation of a new record or compilation of records pertaining to case files or case-related information which are granted will be accommodated within a reasonable amount of time*

- a) *as determined by the availability of sufficient data already contained in the records or record data base to easily identify those records requested, and*
- b) *only if such compilation will not unreasonably interfere with the discharge of court functions.*

2) *Costs to provide records under subsection 5.d.1) will include direct costs to the court to develop, generate and validate the accuracy of the report.*

Effective Date:

Date:

Chief Judge Signature:

**[] COURT
FILE/COPY REQUEST FORM**

1. Date of Request _____
2. Requested by: NAME _____
ADDRESS _____
Telephone-Home _____ Office _____
3. Please specify the complete party name(s) and/or case number below:
Case Number _____
Party Name(s) _____ vs _____
4. Nature of Request
_____ Review File
_____ Obtain Copies
5. If copies are requested, list documents to be copied:
_____ Complete case file (except for any non-public court records).
_____ Specific documents (list-use additional page if necessary)

NOTE:

Michigan law does not require that you place your name and address on this form. This information is required to facilitate the processing of your request.

=====

For Court Use Only

Copies _____ x Per page _____

Total charged _____

Handled by _____ on _____
Court Clerk Date

[] COURT

MEMORANDUM

TO: Persons Requesting General Record Checks

FROM: [], Court Administrator

Please be advised that per [] Court Administrative Order [], a specific case number or the party names are required in order to provide the information you have requested.

If you do not have a specific case number or case name, the following options are available:

1. You may review available case indexes at the [] Court to identify and select specific cases for inspection. Please note that this review may only provide information on current or recent [] court cases from this court.
2. A more complete record check, may be requested by writing the appropriate state agency. Both the Michigan State Police and Department of State maintain computer information expressly for this purpose.

(a) To obtain a Criminal Record Check contact the:

Michigan State Police
Central Records Bureau
7150 Harris Drive
Lansing, Michigan 48913
Telephone: (517)322-5531

(b) To obtain a Driving (Traffic) Record contact the:

Michigan Department of State
Commercial Look-up Unit
7064 Crouner Drive
Lansing, Michigan 48918
Telephone: (517)322-1624

Once you receive complete record checks, you will be able to contact the appropriate Police agency or Court listed on the records to obtain case specific information.

The [] Court regrets that it cannot accommodate your request at this time. If you have any additional questions, please contact the Court at [].

RESTRICTIONS ON PUBLIC ACCESS TO COURT CASE RECORDS AND AUTHORITY

The following are **some** of the more common statutes, court rules, and case law which restrict public access to court case records or portions of records.

3. MCL 28.243 et seq.; MSA 4.463 et seq., fingerprinting materials maintained for reportable juvenile offenses (Circuit, Juvenile)
4. MCL 28.247; MSA 4.467(1), reports of sexually motivated crimes (Circuit, Juvenile)
5. MCL 330.1612(4); MSA 14.800(612)(4), report of developmentally disabled person (Probate)
6. MCL 333.5129(6); MSA 14.15(5129(6)) and MCL 333.5131; MSA 14.15(5131), Confidentiality of reports and records involving serious communicable diseases and HIV infection (Circuit, District, and Probate)
7. MCL 333.7411; MSA 14.15(7411), controlled substance act cases (Circuit, District)
8. MCL 500.8111; MSA 24.18111, insurance code, all court records involving proceedings for the supervision of an insurer transacting business in Michigan (Circuit, District)
9. MCL 700.443(3); MSA 27.5443(3), physician's reports for legally incapacitated persons; MCL 700.5304 after April 1, 2000 (Probate, Circuit)
10. MCL 710.67; MSA 27.3178(555.67), all adoption records (Circuit)
11. MCL 712A.17; MSA 27.3178(598.17), testimony taken during a closed proceeding
12. MCL 712A.18e; MSA 28.3178(598.18e) and MCR 5.925(D)(2), confidential files in juvenile court proceedings and setting aside convictions (Circuit, Juvenile)
13. MCL 722.30; MSA 25.312(10), records concerning child (Circuit)
14. MCL 722.831 et seq.; MSA 25.243(51) et seq., diversion records of minors (Circuit, Juvenile)
15. MCL 722.904; MSA 25.248(104), Parental Rights Restoration Act; sealed private files (Circuit, Juvenile)
16. MCL 750.350a; MSA 28.582(1), parental kidnapping records (Circuit)
17. MCL 762.14; MSA 28.853(14), Holmes Youthful Trainee Act (Circuit, District)
18. MCL 767A.2(5); MSA 28.1023A(2)(5), investigative subpoenas (Circuit, District)
19. MCL 769.4a; MSA 28.1067(1), spouse abuse act cases (District, Circuit)
20. MCL 780.623; MSA 28.1274(103), setting aside convictions cases (Circuit, District)
21. MCL 780.781 et seq.; MSA 28.1287(781) et seq., separate statement about known victims of juvenile offenses (Circuit, Juvenile)
22. MCL 791.229; MSA 28.2299, all probation department files including presentence investigation and alcohol assessment reports (Circuit)
23. 28 CFR Part 20 and LEIN administrative rule, R 28.5208, Law Enforcement Information Network (LEIN) histories (Circuit, District, Juvenile)
24. 28 USC 20, Non-Conviction criminal history records (Circuit, District, Juvenile)
25. MCR 2.510(C), juror personal history questionnaire (Circuit, District, Probate)
26. MCR 3.218, Friend of the Court records (Circuit)
27. MCR 5.783(B), Parental Rights Restoration Act; sealed private files (Circuit, Juvenile)
28. MCR 5.925(A)(2), testimony taken during a closed proceeding
29. MCR 5.943(C)(3), dispositional reports
30. MCR 5.973(A)(4)(c), dispositional reports
31. In re Midland Publishing Co., 420 Mich 148 (1984)
32. In re Times Publishing Co., 276 Mich 349 (1936)
33. People v. Bobek, 217 Mich. App. 218 (1996)
34. People v. Rohn, 98 Mich. App. 593 (1980)
35. Schmedding v. County Clerk of Wayne County, 85 Mich 1 (1891)